



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,494	08/30/2005	Billy Palmius	95715-P1719	4352
20736	7590	10/05/2006	EXAMINER	
MANELLI DENISON & SELTER 2000 M STREET NW SUITE 700 WASHINGTON, DC 20036-3307			NGUYEN, SON T	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 10/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/532,494

Applicant(s)

PALMIUS, BILLY

Examiner

Son T. Nguyen

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

SON T. NGUYEN
PRIMARY EXAMINER

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/03)
Paper No(s)/Mail Date 4/25/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 7-9,12,13,15,16,18-20,22,23** are rejected under 35 U.S.C. 103(a) as being unpatentable over Arnold (US2002/0162307A1) in view of Nishibori et al. (US2002/0041949A1).

For claims 7-9, Arnold teaches a numnah for interposition between a saddle and an animal to be ridden, the numnah comprising: a first layer 11 comprising a base layer having an open cell structure, wherein the base layer comprises a foam [0032]; and a second layer 13 disposed adjacent to the first layer, the second layer being in the form of a cover fabric [0029] having an open structure constructed and arranged to be applied against the back of the animal to be ridden, wherein the numnah has a thickness in the range of 2 to 20 mm [0032]. However, Arnold is silent about the foam being polyurethane and at least 50% recycle polyurethane foam, and the base layer having an Asker type C hardness in the range of 10 to 35 and a water absorption capacity of at least 300% of its own weight, a water absorption capacity of at least 320% of its own weight, or a water absorption capacity of at least 500% of its own weight.

Nishibori et al. teach recycled polyurethane foam used in a wide variety of application such as for cushioning [0004] [0007] [0099]. It would have been obvious to

one having ordinary skill in the art at the time the invention was made to employ the recycled polyurethane as taught by Nishibori et al. in the base layer of the numnah of Arnold, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious choice. In re Leshin, 125 USPQ 416.

In addition, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have at least 50% recycle polyurethane foam, and the base layer having an Asker type C hardness in the range of 10 to 35 and a water absorption capacity of at least 300% of its own weight, a water absorption capacity of at least 320% of its own weight, or a water absorption capacity of at least 500% of its own weight in the numnah of Arnold as modified by Nishibori et al., since it has been held that where routine testing and general experimental conditions are present, discovering the optimum or workable ranges until the desired effect is achieved involves only routine skill in the art. In re Aller, 105 USPQ 233.

For claims 12-13, Arnold as modified by Nishibori et al. is silent about wherein the base layer has an air permeability of 150-300 l/m.sup.2sec, or an air permeability of 150-300 l/m.sup.2sec. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the base layer having an air permeability of 150-300 l/m.sup.2sec, or an air perrneability of 150-300 l/m.sup.2sec in the numnah of Arnold as modified by Nishibori et al., since it has been held that where routine testing and general experimental conditions are present, discovering the optimum or workable

ranges until the desired effect is achieved involves only routine skill in the art. In re Aller, 105 USPQ 233.

For claims 15-16,18, Arnold as modified by Nishibori et al. (emphasis on Arnold) further teaches wherein the numnah has an edge and at least a part of the edge is curved inwards (see fig. 3).

For claims 19-20,22-23, Arnold as modified by Nishibori et al. is silent about wherein the base layer consists of a Poliyou.RTM. foam. It would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the base layer of the numnah of Arnold as modified by Nishibori et al. out of Poliyou.RTM. foam, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious choice. In re Leshin, 125 USPQ 416.

3. **Claims 7-9,12,13,15,16,18-20,22-24** are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (4695496) in view of Nishibori et al. (US2002/0041949A1).

For claims 7-9, Lee teaches a numnah for interposition between a saddle and an animal to be ridden, the numnah comprising: a first layer 16 comprising a base layer having an open cell structure, wherein the base layer comprises a foam (col. 5, lines 35-40); and a second layer 13 or 15 disposed adjacent to the first layer, the second layer being in the form of a cover fabric (col. 4, lines 60-68 or col. 5, lines 5-10) having an open structure constructed and arranged to be applied against the back of the animal to be ridden. However, Arnold is silent about the foam being polyurethane and at least 50% recycle polyurethane foam, and the base layer having an Asker type C hardness in

the range of 10 to 35 and a water absorption capacity of at least 300% of its own weight, a water absorption capacity of at least 320% of its own weight, or a water absorption capacity of at least 500% of its own weight; wherein the numnah has a thickness in the range of 2 to 20 mm.

Nishibori et al. teach recycled polyurethane foam used in a wide variety of application such as for cushioning [0004] [0007] [0099]. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the recycled polyurethane as taught by Nishibori et al. in the base layer of the numnah of Lee, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious choice. In re Leshin, 125 USPQ 416.

In addition, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have at least 50% recycle polyurethane foam, and the base layer having an Asker type C hardness in the range of 10 to 35 and a water absorption capacity of at least 300% of its own weight, a water absorption capacity of at least 320% of its own weight, or a water absorption capacity of at least 500% of its own weight in the numnah of Lee as modified by Nishibori et al., since it has been held that where routine testing and general experimental conditions are present, discovering the optimum or workable ranges until the desired effect is achieved involves only routine skill in the art. In re Aller, 105 USPQ 233. Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the numnah of Lee as modified by Nishibori et al. having a thickness in the range of 2 to 20

mm, since it has been held that where routine testing and general experimental conditions are present, discovering the optimum or workable ranges until the desired effect is achieved involves only routine skill in the art. In re Aller, 105 USPQ 233.

For claims 12-13, Lee as modified by Nishibori et al. is silent about wherein the base layer has an air permeability of 150-300 l/m.sup.2sec, or an air permeability of 150-300 l/m.sup.2sec. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the base layer having an air permeability of 150-300 l/m.sup.2sec, or an air permeability of 150-300 l/m.sup.2sec in the numnah of Lee as modified by Nishibori et al., since it has been held that where routine testing and general experimental conditions are present, discovering the optimum or workable ranges until the desired effect is achieved involves only routine skill in the art. In re Aller, 105 USPQ 233.

For claims 15-16,18, Lee as modified by Nishibori et al. (emphasis on Lee) further teaches wherein the numnah has an edge and at least a part of the edge is curved inwards (see fig. 1).

For claims 19-20,22-23, Lee as modified by Nishibori et al. is silent about wherein the base layer consists of a Poliyou.RTM. foam. It would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the base layer of the numnah of Lee as modified by Nishibori et al. out of Poliyou.RTM. foam, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious choice. In re Leshin, 125 USPQ 416.

For claim 24, Lee as modified by Nishibori et al. (emphasis on Lee) further teaches a thin outer layer 11 disposed adjacent to the first layer.

4. **Claims 10,11,14,17,21** are rejected under 35 U.S.C. 103(a) as being unpatentable over Arnold as modified by Nishibori et al. as applied to claim 7 above, and further in view of Turner et al. (5104910).

For claims 10-11, Arnold as modified by Nishibori et al. is silent about wherein the base layer contains activated carbon. Turner et al. teach polyurethane foam with activated carbon as a catalyst (col. 5, lines 35-50). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ activated carbon as taught by Turner et al. in the foam of Arnold as modified by Nishibori et al. in order to not only act as a catalyst but to also reduce odor in the foam.

For claim 14, Arnold as modified by Nishibori et al. and Turner et al. is silent about wherein the base layer has an air permeability of 150-300 l/m.sup.2sec. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the base layer having an air permeability of 150-300 l/m.sup.2sec in the numnah of Arnold as modified by Nishibori et al. and Turner et al., since it has been held that where routine testing and general experimental conditions are present, discovering the optimum or workable ranges until the desired effect is achieved involves only routine skill in the art. In re Aller, 105 USPQ 233.

For claim 17, Arnold as modified by Nishibori et al. and Turner et al. (emphasis on Arnold) further teaches wherein the numnah has an edge and at least a part of the edge is curved inwards (see fig. 3).

For claim 21, Arnold as modified by Nishibori et al. and Turner et al. is silent about wherein the base layer consists of a Poliyou.RTM. foam. It would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the base layer of the numnah of Arnold as modified by Nishibori et al. and Turner et al. out of Poliyou.RTM. foam, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious choice. In re Leshin, 125 USPQ 416.

5. **Claims 10,11,14,17,21** are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee as modified by Nishibori et al. as applied to claim 7 above, and further in view of Turner et al. (5104910).

For claims 10-11, Lee as modified by Nishibori et al. is silent about wherein the base layer contains activated carbon. Turner et al. teach polyurethane foam with activated carbon as a catalyst (col. 5, lines 35-50). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ activated carbon as taught by Turner et al. in the foam of Lee as modified by Nishibori et al. in order to not only act as a catalyst but to also reduce odor in the foam.

For claim 14, Lee as modified by Nishibori et al. and Turner et al. is silent about wherein the base layer has an air permeability of 150-300 l/m.sup.2sec. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the base layer having an air permeability of 150-300 l/m.sup.2sec in the numnah of Lee as modified by Nishibori et al. and Turner et al., since it has been held that where routine testing and general experimental conditions are present, discovering

the optimum or workable ranges until the desired effect is achieved involves only routine skill in the art. In re Aller, 105 USPQ 233.

For claim 17, Lee as modified by Nishibori et al. and Turner et al. (emphasis on Lee) further teaches wherein the numnah has an edge and at least a part of the edge is curved inwards (see fig. 1).


For claim 21, Lee as modified by Nishibori et al. and Turner et al. is silent about wherein the base layer consists of a Poliyou.RTM. foam. It would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the base layer of the numnah of Lee as modified by Nishibori et al. and Turner et al. out of Poliyou.RTM. foam, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious choice. In re Leshin, 125 USPQ 416.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is 571-272-6889. The examiner can normally be reached on Mon-Thù from 10:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3643

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Son T. Nguyen
Primary Examiner
Art Unit 3643

stn